

Appl. No. 10/798,079
Amdt. Dated May 18, 2010
Reply to Office action of November 18, 2010

REMARKS/ARGUMENTS

35 U.S.C. §103

Claims 98 – 104 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent. No. 6,038,563 (“Bapat”) in view of several combinations as proposed by the Examiner. Claims 98 and 101 stand rejected as being unpatentable over Bapat in view of U.S. Patent. No. 5,956,715 (“Glasser”) and further in view of Belfiore et al, U.S. Patent No. 6,990,513 (“Belfiore”). Claim 99 stands rejected over Bapat in view of Glasser and Belfiore in further view of U.S. Patent. No. 6,298,445 (“Shostack”). Claim 100 stands rejected over Bapat in view of Glasser and Belfiore in further view of U.S. Patent. No. 6,321,337 (“Reshef”). Claims 102 – 104 stands rejected over Bapat in view of Glasser and Belfiore in further view of U.S. Patent. No. 6,405,318 (“Rowland”).

With respect to claim 98, the office action identifies three elements in the claim language “wherein transmitting the signal to the console includes using a dispatcher agent connected to the console over a peer-to-peer channel and transmission of the signal is platform independent.” Applicant respectfully disagrees that Bapat as teaches or suggests “the dispatcher,” for Applicant’s claimed “peer-to-peer channel.”

Applicant submits Bapat fails to teach or suggest any of the three elements parsed out by the Examiner. The piecemeal rejection is clear evidence of an attempt at impermissible hindsight reconstruction. More importantly, Bapat’s comprehensive disclosure is not even sufficient for such a reconstruction.

First, Fig. 5 shows a flow chart outlining the process of the access control decision function. According to Bapat, the access decision control function requires access

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requests to be processed in a strict sequential order. In fact, the requests of Bapat must be compared successively with a global deny rule, then a set of targeted deny rules, then a global grant rule and finally a set of targeted allow rules, in that order. (Bapat, Col. 11:59 – 62) In contrast, Applicant's console and dispatcher operate over a peer-to-peer channel where the console may update the rules with exceptions on the fly.

Not only does Bapat fail to teach or suggest connecting the console and dispatcher over a peer-to-peer channel, but Bapat's hard coded global deny and global grant rules teach away from Applicant's more dynamic technique when Applicant's claim is properly considered as a whole. Since it is improper to combine references where the references teach away from their combination, Applicant respectfully requests withdrawal of the rejection.

Applicant also disagrees that Bapat teaches or suggests "a peer-to-peer channel." More specifically, the office action relies on Bapat's MIS to transmit event notification messages to specific users and entities. The existence of an MIS for transmitting event notifications to users and entities does not support reading Bapat as disclosing a peer-to-peer channel. In fact, it clearly teaches away as the MIS is a centralized control that maintains an event registry which holds user event requests in a table. In fact, the MIS directs all access requests whose specified operation type is "event notification" to the event registry, regardless of which objects are specified by the request. As such, Bapat's MIS not only fails to teach or suggest a peer-to-peer channel, but the centralized nature of Bapat's MIS teaches away from Applicant's claimed peer-to-peer channel. Since it is improper to combine references where the references teach away from their combination, Applicant respectfully requests withdrawal of the rejection.

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Finally, the office action then routes back to the beginning of the Bapat reference where general networking principles are discussed. In order to support the assertion that Bapat teaches platform independence, the office action refers to Bapat's discussion of any network that uses management functions. When properly considered as a whole, the platform independence claimed by Applicant refers, *inter alia*, to the ability of Applicant's claimed technique to run on various operating systems. In contrast, Bapat is does not even mention operating systems. As such, Bapat fails to teach the platform independence as claimed.

Applicant submitted the following amendment to place the claims in condition for allowance. Without prejudice or disclaimer, Applicant amended claim 98 to recite the element "wherein the secure connection operates over a secure socket layer and the console and the listener agent are in cross-platform communication using simple object access protocol." The office action cites to Belfiore, a Microsoft-assigned patent with a filing date of June 22, 2001 for a Distributed Computer Services Platform. Applicant submits that a general distributed services platform is a predicate to Applicant's invention, given that the invention is a particular test apparatus for applications to determine unauthorized activity. That it may be done on a distributed platform does not render the claims unpatentable in view of Belfiore.

Applicant submits the prior art of record, either alone or in combination, fails to teach or suggest a console agent and listener agent in secure communication via an SSL connection. Furthermore, the Bapat reference teaches away from the dispatcher agent and peer-to-peer channel making any combination with the primary reference improper.

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Conclusion

Applicant believes the above is fully responsive to the examiner's concerns. Applicant further submits the rejection of the pending claims should be considered as no longer tenable with respect to the amended claims and should be withdrawn. Should the Examiner consider necessary or desirable any formal changes anywhere in the specification, claims and/or drawing, then it is respectfully asked that such changes be made by Examiner's Amendment, if the Examiner feels this would facilitate passage of the case to issuance. Alternatively should the Examiner feel that a personal discussion might be helpful in advancing this case to allowance, he is invited to telephone the undersigned.

Respectfully submitted,

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